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INDETERMINATE SENTENCE IN MAINE

sentences by the courts throughout the state for crimes of the same grade and nature forms one of the greatest barriers in administering the penal institution of the state along the lines suggested by humane principles. The effect of wide variation in sentences for like offenses tends to create a spirit of rebellion among the prisoners and to sow the seeds of anarchy. Reformation is thereby seriously hampered. Often the one who is committed for a maximum term of years is more responsive to prison rules and regulations than the one who receives the minimum sentence for a like crime. The ends of justice are thus not met.

"It is apparent," says the report, "that there should be some remedial legislation on this subject; some statute drawn on broad lines, and based on that fundamental principle of self-help and self-effort on the part of the prisoner himself, for, without this determination and honest effort on his part, all other assistance would avail but little. Believing, as we do, that there should be more uniformity of sentences for similar offenses and that even the equal opportunity for reform should be given to all prisoners, it would seem that the indeterminate sentence idea comes nearer to meeting the requirements and holds out the most practical solution in working out the reform sought. Under the operations of such laws, even justice and equal opportunities are offered and every man placed upon the same footing, and individual personal effort carries its own reward to be bestowed at such time, after the expiration of his minimum sentence, as his conduct, deportment and efficiency or service will warrant."

R. H. G.

The Indeterminate Sentence Law of Maine.—The following law was created during the last session of the State Legislature in Maine (Chapter 60).

AN ACT to provide for the indeterminate sentence as a punishment for crime, upon the conviction thereof, and for the detention and release of persons in prison or detained on such sentences, and for the expense attending the same.

SECTION 1. That when any person shall be convicted of crime the punishment for which prescribed by law, may be imprisonment in the state prison at Thomaston, or the State School for Boys at South Portland, the court imposing sentence, shall not fix a definite term of imprisonment in said state prison, and may not fix a definite term in said State School for Boys, but shall or may fix a minimum term of imprisonment which shall not be less than six months in any case. The maximum penalty provided by law shall be the maximum sentence in all cases except as herein provided and shall be stated by the judge in passing sentence. The judge shall at the time of pronouncing such sentence recommend and state therein what, in his judgment, would be a proper maximum penalty in the case at bar not exceeding the maximum penalty provided by law. Every person confined in the state prison on the date of the passage of this act under sentence for a definite term for a felony, unless the term be for life, who has never before been convicted of a crime punishable by imprisonment in a state prison, shall be subject to the jurisdiction of the governor and advisory board in the matter of paroles and may be paroled in the same manner and subject to the same conditions and penalties as prisoners confined under indeterminate sentences under the provisions of this act. The minimum and maximum terms of the sentences of said prisoners are hereby fixed and determined to be as follows. The definite term for which each person is sentenced shall be the maximum limit of his term and if the definite term for which the person is sentenced is two years or less the minimum limit of his term shall be one year. If the definite term for which the person is sentenced is more than two years, one-half of the definite term of his sentence shall be the minimum limit of his

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term. He shall before or at the time of passing such sentence ascertain by examination of such prisoner on oath, or otherwise, and in addition to such oath, by such other evidence as can be obtained tending to indicate briefly the causes of the criminal character or conduct of such prisoner, which facts, and such other facts as shall appear to be pertinent in the case, he shall cause to be entered upon the minutes of the court.

SECTION 2. The maximum term of imprisonment shall not exceed the longest term fixed by law for the punishment of the offense of which the person sentenced is convicted, and the minimum term of imprisonment fixed by the court shall not exceed one-half of the maximum term of imprisonment fixed by statute. Provided, that where the law prescribing the punishment for the offense of which the prisoner stands convicted, fixes the minimum term of imprisonment, then the minimum term fixed by law shall be the minimum term of imprisonment.

SECTION 3. The provisions of this act shall not apply to any person convicted of an offense the only punishment for which prescribed by law is imprisonment for life. Provided, that in all cases where the maximum sentence, in the discretion of the court, may be for life or any number of years, the court imposing sentences shall fix both the minimum and maximum sentence. The minimum term of imprisonment thus fixed by the court shall not exceed one-half of the maximum term so fixed.

SECTION 4. Whenever a person shall be convicted of a crime and sentenced to imprisonment pursuant to the provisions of this act, the clerk of the court shall make and forward to the warden or superintendent of the institution to which the convict is sentenced, and also to the governor, a record containing a copy of the information or complaint, the sentence pronounced by the court, the name and residence of the judge presiding at the trial, prosecuting attorney and sheriff, and the names and postoffice addresses of the jurors and the witnesses sworn on the trial, together with a statement of any fact or facts which the presiding judge may deem important or necessary for a full comprehension of the case and a reference to the statute under which the sentence was imposed. One copy of the said record shall be delivered to the warden or superintendent at the time the prisoner is received into the institution and one copy shall be forwarded to the governor within ten days thereafter. In each case in which he shall perform the duties required by this act, the clerk of the court shall be entitled to such compensation as shall be certified to be just by the presiding judge at the trial, not to exceed three dollars for any one case, which shall be paid by the county in which the trial is had as part of the expenses of such trial.

SECTION 5. The governor shall appoint a committee of three from the executive council to act as an advisory board in the matter of paroles. The three members of the executive council constituting the advisory board in the matter of paroles shall have authority and power to hire a secretary who shall be clerk of said advisory board in the matter of paroles. He shall be sworn to keep a true copy of the records of said board and to the faithful and impartial performance of his duties. The governor and executive council shall have authority to fix the compensation of said clerk. The three members of the executive council acting as the advisory board in the matter of paroles shall receive for their services five dollars per day for each day employed in the work of said board and necessary expenses.

SECTION 6. Authority to grant parole under the provisions of this act is

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hereby conferred exclusively upon the governor in all cases of manslaughter, actual forcible rape, for offenses by public officers in violation of their duties as such officers, and to all persons convicted and serving sentence for conspiracy to defraud public municipalities, or the bribing of or attempting to bribe, public officers. In all other cases such authority is hereby conferred upon the advisory board in the matter of paroles. The governor and the advisory board in the matter of paroles, acting jointly, shall have authority to adopt such rules as may by them, be deemed wise or necessary to properly carry out the provisions of this act, and to amend such rules at pleasure. Provided, prisoners, under the provisions of this act, shall be eligible to parole only after the expiration of their minimum term of imprisonment, and prisoners who have been twice previously convicted of a felony shall not be eligible to parole.

SECTION 7. Application shall be made to the governor, or to the advisory board in the matter of paroles upon uniform blanks prescribed by the governor and the advisory board in the matter of paroles to the wardens or superintendents of the penal institutions named in section one of this act. It shall be the duty of the warden or superintendent when requested by a prisoner whose minimum term of imprisonment has expired and is eligible to parole, to furnish such prisoner with a blank application for parole. The application shall be filled out and delivered to the warden or superintendent who shall immediately forward the same to the governor or to the advisory board in the matter of paroles with his recommendation endorsed thereon. Upon receipt of such application and recommendation, the governor or the advisory board in the matter of paroles, shall make such investigation in the matter as they may deem advisable and necessary, and may, in their discretion, grant such application and issue a parole or permit to such applicant to go at large without the enclosures of the prison. The prisoner so paroled, while at large by virtue of such parole, shall be deemed to be still serving the sentence imposed upon him, and shall be entitled to good time the same as if confined in prison. Provided, that whenever the prisoner so paroled shall have been committed to or confined in any such prison or reformatory from a county other than the county in which the prison or reformatory in which he has been last confined is situated, it shall be made a condition of his parole that he shall not live or remain in the county in which the prison or reformatory in which he was last confined is situated, without the express consent of the officers or board granting such parole, which consent may be granted or revoked by such officer or board, for cause shown at any time before such convict is finally discharged.

SECTION 8. No prisoner shall be released on parole until the governor or advisory board in the matter of paroles shall have satisfactory evidence that arrangements have been made for such honorable and useful employment of the prisoner as he is capable of performing, and some responsible person (not a relative) shall agree to act as his "first friend and adviser," who shall execute an agreement to employ the prisoner, or use his best efforts to secure suitable employment for him. Said "first friend and adviser" may, in the discretion of the governor or the advisory board in the matter of paroles, be required to furnish a bond, or other satisfactory security to the governor for the faithful performance of his obligation as such "first friend and adviser." All moneys collected upon such bond or security shall be turned over to the state treasurer and credited by him to the general fund of the state.

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SECTION 9. Every such prisoner, while on parole, shall remain in the legal custody and control of the warden or superintendent of the prison from which he is paroled and shall be subject at any time to be taken back within the enclosure of said prison for any reason that may be satisfactory to the warden or superintendent, and full power to retake and return any such paroled prisoner to the prison from which he was allowed to go at large is hereby expressly conferred upon the warden or superintendent of such prison, whose written order shall be a sufficient warrant authorizing all officers named therein to return such paroled prisoner to actual custody in the prison from which he was permitted to go at large. When the warden or superintendent shall return to prison any paroled prisoner, he shall at once report the fact, and his reasons therefor, to the advisory board in the matter of paroles and his action shall stand approved unless reversed by a majority vote of said board, but no prisoner shall be returned twice for the same offense.

SECTION 10. A prisoner violating the provisions of his parole and for whose return a warrant has been issued by the warden or superintendent shall, after the issuance of such warrant, be treated as an escaped prisoner owing service to the state, and shall be liable, when arrested, to serve out the unexpired portion of his maximum imprisonment; and the time from the date of his declared delinquency to the date of his arrest shall not be counted as any part or portion of the time to be served.

SECTION 11. Any prisoner committing a crime while at large upon parole or conditional release and being convicted and sentenced therefor shall serve the second sentence to commence from the date of the termination of the first sentence after the sentence is served or annulled.

SECTION 12. At the time of granting parole to any prisoner either by the governor or the advisory board in the matter of paroles they shall each respectively determine the length of time the prisoner shall remain on parole, which shall not be more than four years in any case. After any prisoner has faithfully performed all the obligations of his parole for the period of time fixed, and has regularly made his monthly reports as required by the rules providing for his parole, he shall be deemed to have fully served his entire sentence, and shall then receive a certificate of final discharge from the warden or superintendent in whose custody he is. A duplicate copy of such final discharge shall at once be sent to the secretary of the advisory board in the matter of paroles who shall file the same in the office of the governor.

SECTION 13. On the first day of each month, each paroled prisoner shall make a written report to the warden of the prison, or superintendent of the institution from which he was released, showing his conduct during the current month, his employment, earnings and expenditures, his probable postoffice address and place of employment for the coming month, and the warden or superintendent in charge of each institution of this state named in section one of this act, shall, not later than the fifteenth day of each month, tabulate and report to the advisory board in the matter of paroles, in writing, the information thus received, and he shall communicate to the advisory board in the matter of paroles immediately all violations and infractions of the rules governing such paroled prisoners. In their annual report to the governor, the advisory board in the matter of paroles shall include a summary of the paroles and releases under this act, the names of all persons who have violated their paroles, the nature

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of such violations, together with such information concerning the operations under the law as may be deemed to be of public interest.

SECTION 14. There shall be kept in the prison or institution named in section one of this act, by the warden or superintendent thereof, a book containing a full and accurate record of each and every transaction had under the provisions of this act. A summary of such record shall be filed with the advisory board in the matters of paroles, to be by said board compiled and included in the annual report of the advisory board, when report shall be submitted in writing to the governor on or before the first day of December in the year nineteen hundred and thirteen, and on or before December first of each year thereafter, and said report shall be accompanied by such recommendations as the board may see fit to make.

SECTION 15. The secretary of the advisory board in the matter of paroles is hereby authorized to provide all blanks required for the proper execution of the provisions of this act after the forms for such blanks have been approved by the governor and the advisory board in the matter of paroles.

SECTION 16. Whenever any prisoner is released upon parole he shall receive from the state, clothing not exceeding ten dollars in cost and a non-transferable ticket at his own expense to the county where his "first friend" resides. The warden may, in his discretion, at the risk of the state, advance to any paroled prisoner the cost of a ticket as above provided and expenses not to exceed two dollars, and failure on the part of the paroled prisoner to return the money so advanced within sixty days may be declared a violation of parole warranting the return of the violator to prison.

SECTION 17. Whenever the parole of any prisoner shall be ordered by the advisory board in the matter of paroles or the governor, the clerk of said board shall at once notify the sheriff of the county or the chief of police of the city to which he is paroled of the issuance of such parole, naming the county where convicted, the crime for which convicted, the name and address of the "first friend," and the length of time which said prisoner shall be required to report before receiving final discharge.

SECTION 18. Any sheriff, chief of police, or probation officer, shall upon the request of the governor or the advisory board in the matter of paroles, act as "first friend" and adviser for paroled prisoners while on parole from any prison or reformatory in the state, and shall, upon the approval of the secretary of the advisory board in the matter of paroles, be paid from the general fund of the state not otherwise appropriated, one dollar per month for each paroled prisoner for such service. Whenever the term of office of any such officer, acting as "first friend," shall expire while any such parole is in force; the duties of such "first friend" shall be assumed by the successor in office of such officer.

SECTION 19. Nothing in this act shall be construed to interfere or impair the power of the governor to grant pardons or commutations of sentence nor shall anything herein contained be construed to interfere with the rights of any person who may be serving out a term of imprisonment in any penal institution in this state by virtue of a sentence imposed under the law heretofore or now in force.

SECTION 20. All laws, acts or parts of acts in conflict with the provisions of this act are hereby repealed.—(Approved March 14, 1913.)

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